

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

UNITED STATES OF AMERICA,

v.

Criminal No.: 2:18cr119

DESMOND LITTLEJOHN

MOTION TO EXCLUDE DNA EVIDENCE

NOW COMES the Defendant, by counsel, and moves this Court, pursuant to Rule 12 of the Federal Rules of Criminal Procedure and Rule 403 of the Federal Rules of Evidence, to exclude any certificate of analysis pertaining to a ski mask allegedly recovered near the scene of the alleged robbery.

In support thereof, the Defendant states as follows:

1. A ski mask is alleged to have been recovered about 0.4 miles away from the alleged robbery.
2. The ski mask was tested for DNA.
3. The test revealed a mixture DNA profile on February 5, 2018.
4. A mixture DNA profile indicates DNA material from more than 1 person.
5. This mixture DNA was tested against the DNA databank on February 5, 2018.
6. The same mixture DNA was tested against buccal swabs from the Defendant more than a month later on March 30, 2018.
7. The March 30, 2018 certificate of analysis contains a mistake in the statistical calculations.
8. On May 23, 2018, nearly 2 months later a third certificate of analysis attempts to correct the statistical calculations.

Federal Rule of Evidence 403 states “Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”

Here the admission of any certificate is unfairly prejudicial, confusing and misleading. There is DNA from more than one person present on the ski mask. There is a mistake in the statistical calculations of the last certificate. These circumstances diminish the reliability of the certificates to the extent that they should be excluded.

WHEREFORE: For the reasons set forth above, the Defendant, by counsel, respectfully moves this Court to exclude any DNA evidence related to an alleged ski mask recovered by police.

DESMOND LITTLEJOHN

_____/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2018, I served a true copy of the foregoing via the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record, including:

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/s/

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